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October 2001

# DEFENSE ENVIRONMENTAL ISSUES

## Improved Guidance Needed for Reporting on Recovered Cleanup Costs



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<p><b>Abstract</b></p> <p>The U.S. government could pay billions of dollars to clean up hazardous waste contamination resulting from past activities at Department of Defense (DOD) sites. 1 Non-DOD parties such as private contractors or lessees that may have contributed to such contamination may also be responsible for the costs of cleanup at these sites. The Department and other responsible parties either agree to a cost sharing arrangement with the responsible parties conducting the cleanup or the Department conducts the cleanup and attempts to recover the other parties share after the cleanup. In previous reports, we identified wide variations in practices within the Department concerning attempts to recover non-DOD parties share of the costs of cleanups and recommended that the Department resolve these inconsistencies. 2 Section 348 of the National Defense Authorization Act for Fiscal Year 1998 required the Department to issue guidance and collect data on cost recoveries. In response, the Department issued guidance that requires its components (the Army, Navy, Air Force, and Defense Logistics Agency) to identify, investigate, and pursue cost recoveries and to report on them in its Defense Environmental Restoration Program Annual Report to the Congress.</p>		
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**United States General Accounting Office**  
Washington, DC 20548

October 26, 2001

The Honorable Carl Levin  
Chairman  
The Honorable John W. Warner  
Ranking Minority Member  
Committee on Armed Services  
United States Senate

The U.S. government could pay billions of dollars to clean up hazardous waste contamination resulting from past activities at Department of Defense (DOD) sites.<sup>1</sup> Non-DOD parties such as private contractors or lessees that may have contributed to such contamination may also be responsible for the costs of cleanup at these sites. The Department and other responsible parties either agree to a cost sharing arrangement with the responsible parties conducting the cleanup or the Department conducts the cleanup and attempts to recover the other parties' share after the cleanup. In previous reports, we identified wide variations in practices within the Department concerning attempts to recover non-DOD parties' share of the costs of cleanups and recommended that the Department resolve these inconsistencies.<sup>2</sup> Section 348 of the National Defense Authorization Act for Fiscal Year 1998 required the Department to issue guidance and collect data on cost recoveries. In response, the Department issued guidance that requires its components (the Army, Navy, Air Force, and Defense Logistics Agency) to identify, investigate, and pursue cost recoveries and to report on them in its Defense Environmental Restoration Program Annual Report to the Congress.

In fiscal year 1998, the Senate Committee on Armed Services directed that we continue to review the Department's efforts to recover the costs of cleanups from non-DOD parties.<sup>3</sup> In August 2000 and May 2001, we briefed

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<sup>1</sup> A site is a place on an installation where hazardous materials were released into the environment.

<sup>2</sup> See *Environmental Cleanup at DOD: Better Cost-Sharing Guidance Needed at Government-Owned, Contractor-Operated Sites* ([GAO/NSIAD-97-32](#), Mar. 27, 1997), *Environmental Cleanup: Inconsistent Cost Sharing Arrangements May Increase Defense Costs* ([GAO/NSIAD-94-231](#), July 7, 1994), and *Environmental Cleanup: Observations on Consistency of Reimbursements to DOD Contractors* ([GAO/NSIAD-93-77](#), Oct. 22, 1992).

<sup>3</sup> See Senate Report 105-29 accompanying the National Defense Authorization Act for Fiscal Year 1998 (P.L. 105-85).

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your offices on the status of the Department's cost recovery efforts. As agreed with your offices, for this report, we determined whether the cost recovery data included in the Department's fiscal year 1999 report, the latest issued, are accurate, consistent, and complete and how the data changed from those reported in fiscal year 1998.

The Department's annual report is the primary vehicle for reporting on environmental cleanups. DOD components provide data on the costs recovered from non-DOD parties, which are included in an appendix to the report. The components use the Department's 1998 guidance for reporting on cleanups and cost recoveries. The guidance requires that the components attempt to recover the costs of cleanups that exceed \$50,000 and report the cleanup sites' name and location, the amounts recovered, and the costs of pursuing the recovery (for example, attorneys' fees). For our report, we reviewed the Department's guidance and the fiscal year 1999 report, including the cost recovery appendix. The details of our scope and methodology are in appendix I.

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## Results in Brief

The data on cost recoveries from non-Defense parties included in the Department's report for fiscal year 1999 were not accurate, consistent, or complete. As a result, the data are not useful for management and oversight because neither the Congress nor the Department can determine the extent of progress being made in recovering costs or the extent to which cost recoveries may offset environmental cleanup costs. The data reported in fiscal year 1999 were more extensive than in the 1998 report primarily because the Army reported cost recovery activities at 88 more sites. (See table 1.) The other components reported essentially the same number of sites and recovered amounts for both years. The lack of sufficient Defense guidance resulted in the following reporting deficiencies:

- Because the guidance did not define "cost sharing," the Department inaccurately reported \$421 million in recoveries, when only \$171 million should have been reported. The remaining \$250 million was the amount the Department paid for its share of costs for cleanups conducted by other parties and not the amount it recovered from other responsible parties.
- Because the guidance did not specify how the DOD components were to report data, they inconsistently reported recoveries and the costs to pursue the recoveries—some reported cumulative data, others reported fiscal year data, and one reported both.

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Additionally, data on cost recoveries included throughout the 816-page annual report were missing from the appendix. Thus, the Department may not know whether all potential cost recoveries have been actively pursued and reported.

We are making recommendations to improve DOD's guidance for reporting cost recoveries and to enhance the accuracy, consistency, and completeness of the cost recovery data contained in the Department's Environmental Restoration Program Annual Report to the Congress. The Department concurred with our recommendations and cited a number of actions to address them.

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## Background

Having nearly 28,000 potentially contaminated sites, the Department of Defense manages one of the world's largest environmental cleanup programs. Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, contractors and other private parties may share liability for the cleanup costs at these sites. Two major types of sites that may involve such liability are government-owned, contractor-operated facilities (whose operators may be liable) and formerly used Defense sites (whose current and past owners and operators may be liable). The Defense Environmental Restoration Program Annual Report to the Congress is the primary reporting vehicle for the status of cleanup at the many sites for which DOD is either solely or partly responsible for the contamination. The report contains information on the status of cleanup at the sites, such as the amounts spent to date; future costs; and the stage of completion, among other data.

In 1992, 1994, and 1997, we reported that the Department had inconsistent policies and practices for cleanup cost reimbursements to and/or recovery of cleanup costs from non-DOD parties responsible for contamination.<sup>4</sup> We recommended that the Secretary of Defense provide guidance to resolve the inconsistencies. The guidance issued by the Department requires the components to pursue the recovery of cleanup costs of \$50,000 or more and to include in the annual report to the Congress each site's name and location, the recovery status, the amount recovered, and the cost of pursuing the recovery. Under the guidance, if a component determines that it is not in the best interests of the government to pursue a cost recovery, it must inform the Deputy Under Secretary of Defense for

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<sup>4</sup> See [GAO/NSIAD-97-32](#), Mar. 27, 1997; [GAO/NSIAD-94-231](#), July 7, 1994; and [GAO/NSIAD-93-77](#), Oct. 22, 1992.

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Environmental Security (now, the Deputy Under Secretary for Installations and Environment), who is responsible for compiling the annual report to Congress. The guidance does not define “cost recovery” or “cost sharing,” and does not address (1) how the costs of pursuing recovery should be determined; (2) whether data on cost recoveries should be reported by fiscal year, cumulatively, or both; and (3) what the procedures are for ensuring that the data are accurate, consistent, and complete.

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## **Data in DOD’s Fiscal Year 1999 Report Are Not Accurate, Consistent, or Complete**

Because the Department’s management guidance is silent or unclear on key aspects of reporting necessary to collect, verify, and report data on cleanup cost recoveries, its report to Congress for fiscal year 1999 does not provide accurate, consistent, or complete data. Sound management practices require that organizations have clear and specific guidance regarding what data are to be collected and how they are to be reported, and the controls to ensure the accuracy and completeness of the reports. The reports should be useful to managers for controlling operations and to auditors and others for analyzing operations.<sup>5</sup> While we note that the data reported in fiscal year 1999 were more extensive than those reported in 1998, the guidance issued by DOD does not provide sufficient detail to ensure the effective collection, verification, and reporting of data on cost recoveries.

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### **Reported Data Are Not Accurate**

From fiscal year 1998 through fiscal year 1999, DOD reported that cost recoveries increased from \$125.3 million to \$421.5 million. (See table 1.)

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<sup>5</sup> See *Standards for Internal Control in the Federal Government* ([GAO/AIMD-00-21](#). 3.1, Nov. 1999).

**Table 1: Cost Sharing and Recoveries for Environmental Cleanups Reported in Fiscal Years 1998-99**

Dollars in millions		1998	Sites	1999	Sites
<b>Defense component</b>					
Army	\$3.9	24	\$299.8	112 <sup>a</sup>	
Air Force	108.4	7	108.4 <sup>b</sup>	7	
Navy	12.2	9	12.2	10	
Defense Logistics Agency	0.8	1	1.1	1	
<b>Total</b>	<b>\$125.3</b>	<b>41</b>	<b>\$421.5</b>	<b>130</b>	

Note: Army figures include formerly used Defense sites.

<sup>a</sup> Field data indicated there were two more sites for which cost sharing was reported but that were not identified as separate sites. The number of sites reflects an adjustment for this omission.

<sup>b</sup> This amount does not include \$6.7 million that the Air Force reported it transferred to another federal agency for the Air Force's share of cleanup costs.

Source: Defense Environmental Restoration Program Annual Reports to the Congress for Fiscal Years 1998 and 1999.

The reported increase in recoveries is incorrect because \$250.4 million, over half of the \$421.5 million reported as cost recoveries in 1999, was not the amount DOD recovered but the amount it spent on environmental cleanups conducted by other parties. For example, the Army Corps of Engineers reported that at Weldon Spring, Missouri, it had recovered \$180.6 million. Supporting records, however, show the amount as the Corps' share of costs for cleanup the Department of Energy is performing at the site. Corps officials told us they reported only the Corps' share of cleanup costs at these sites because the guidance did not define "cost sharing." In addition, these officials said they did not know what others spend on cleanup at the sites. (This is further discussed in the section on the data's completeness.) The Corps of Engineers also incorrectly reported recoveries totaling about \$70 million at other sites that were also its share of cleanup costs rather than recovered amounts.

Additionally, there were other reporting inaccuracies. For example, two sites with ongoing recoveries—the Rocky Mountain Arsenal and the Massachusetts Military Reservation—that should have been reported by the Army in the fiscal year 1998 report were not reported until the following year. The reported recoveries at these two sites were \$17.3 million and \$28.2 million, respectively, and were not reported because the Army did not report cost sharing arrangements in fiscal year 1998.

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## Reported Data Are Not Consistent

DOD's guidance did not specify how to calculate the costs of pursuing recovery or whether components should report fiscal year data, cumulative data, or both. Consequently, the components' reported data for both cost recoveries and the costs of pursuing recoveries were not consistent.

Calculating the costs of pursuing recoveries has been particularly problematic. For example, although some costs, such as certain legal costs, are obviously related to efforts to recover costs, other legal costs, such as those incurred in defense against charges brought by states or counties, are not. Reported costs to pursue recovery for fiscal years 1998 and 1999 were \$6.2 million and \$37.3 million, respectively.<sup>6</sup>

In the absence of sufficient guidance, Defense components have varied in their reporting of cost recoveries and the costs to pursue recoveries:

- The Air Force estimated the costs of pursuing recoveries at one site and applied these same costs to other sites. It was also the only component that reported cost sharing arrangements with other federal agencies.
- The Navy said it did not keep records to allow it to capture the costs of pursuing recoveries in fiscal year 1998 and reported "unknown" or "to be determined" in fiscal year 1999.
- The Defense Logistics Agency reported \$3.6 million in costs to pursue recoveries and \$1.1 million in recovered amounts. Officials later determined that some of the reported costs, such as contract costs for investigating and cleaning up the site, should not have been included.
- Reporting entities have also been inconsistent in reporting data by fiscal year and cumulatively. For example, in the 1998 report, the Army used fiscal year data for cost recoveries and cumulative data for costs to pursue recoveries. The following year, it used fiscal year data for both. The Air Force and Defense Logistics Agency used cumulative data for recoveries and costs to pursue recoveries. The Navy used cumulative data for recoveries.

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<sup>6</sup> See *Defense Environmental Restoration Program Annual Report to the Congress for Fiscal Years 1998 and 1999*.

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Each of the methods for presenting data—cumulatively or by fiscal year—has certain drawbacks. Showing data cumulatively shows the long term progress that DOD has made in recovering costs, but it can also obscure instances in which no recoveries occurred in a given fiscal year.

Conversely, data for the fiscal year do not show total recoveries at a given site.

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## Reported Data Are Not Complete

The environmental cleanup cost recovery data reported to Congress for fiscal year 1999 were more extensive than that reported in the previous fiscal year's report primarily because the Corps of Engineers reported on cost sharing arrangements at 86 sites that it did not report in fiscal year 1998. The Army also reported on two additional sites in the report for fiscal year 1999. The Navy reported on one additional site, and the Air Force added one site but eliminated another. Despite the improvement, the Department still did not report all cost recoveries in the cost recovery appendix.

In the absence of sufficient guidance, the Defense components have not reported all cost recoveries or costs to pursue recoveries:

- The body of the Department's report includes a field for additional program information pertaining to each site. This field includes information such as progress in conducting investigations and contracts awarded for cleanup. Comments in the additional information field and other sections of the report indicated that cost recovery activities were occurring at sites that were not included in the cost recovery appendix. We identified 138 sites where cleanup costs exceeded the Department's threshold for pursuing recoveries, and where there were indications that either cost recovery was being considered or that non-DOD parties were involved in cleanup. None of these sites were reported in the cost recovery appendix. Fifty-five of these sites were from the fiscal years 1998 and 1999 reports. For example, the groundwater cleanup at Bethpage Naval Weapons Industrial Reserve Plant, New York, involved Northrop/Grumman and the Occidental Chemical Company. Also, comments listed under the Army Tarheel Missile Plant, North Carolina, indicated that cost recovery would be requested from Lucent Technologies, a caretaker contractor at the installation. Neither, however, was included in the report's cost recovery appendix. Failure to include these and other sites at which components may be recovering costs requires decisionmakers and others to search through over 800 pages of reported cleanup data to obtain a complete picture of cost recovery activities.

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- The Defense components are required to report both the costs shared with non-DOD parties at the time of cleanup and the costs that they recovered from non-DOD parties after cleanup. However, the components did not report the amounts for some recoveries because they did not know how much money the non-DOD parties had contributed to cleanups resulting from cost sharing arrangements. The Department's guidance does not include directions for obtaining, calculating, or estimating these amounts; and the components do not have adequate procedures to gather this information. As a result, for 88 sites listed in the fiscal year 1999 report, the amounts spent by non-DOD parties under cost sharing arrangements were not shown. (See table 1.)
- Although it is required, none of the DOD components provided the reasons for deciding not to pursue cost recoveries. According to DOD officials, some reasons for not pursuing recoveries include circumstances where there is insufficient evidence that non-DOD parties caused the problems at the site, where the other responsible party is no longer in business, or where pursuit of the recovery would cost more than the expected amounts recovered. The pursuit of recovery actions is a complex and lengthy process, and decisions to pursue cost recovery at some locations may take a long time.

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## Conclusions

The cost recovery data in the Department's annual environmental cleanup report for fiscal year 1999 are not useful to the Congress or the Department for management or oversight because they are inaccurate, inconsistent, and incomplete. The lack of sufficient guidance resulted in the Department's overstating reported cost recoveries by \$250 million, inconsistent reporting among the Defense components, and the failure to include all recoveries in the cost recovery appendix of the report. These problems limit the ability of the Congress and the Department to determine the extent to which recoveries may offset environmental cleanup costs.

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## Recommendations for Executive Action

To ensure that the Congress and the Department of Defense have accurate, consistent, and complete information on cost recovery efforts, we recommend that the Secretary of Defense direct the Deputy Under Secretary of Defense for Installations and Environment to modify existing guidance in areas where it is silent or unclear and provide specific guidance for (1) defining the types of cost sharing arrangements that should be reported, (2) calculating the costs of pursuing recovery, (3) reporting both cumulative and fiscal year data, and (4) capturing and

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reporting amounts spent by non-DOD parties under cost sharing arrangements. The guidance should include control procedures for ensuring that the data reported by the Department's components are accurate, consistent, and complete; identify all responsible parties; and include reasons for not pursuing recoveries.

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## Agency Comments and Our Evaluation

In official oral comments on a draft of this report from the Office of the Deputy Under Secretary of Defense (Installations and Environment), the Department concurred with our recommendations and plans to develop more accurate, consistent, and complete information on cost recovery data. In September 2001, after our report was submitted to the Department for comments, DOD issued revised management guidance that cited a number of actions that address our recommendations. If effectively implemented, the guidance should improve overall reporting of cost recovery data. The Department also noted that it was unable to verify the numbers in our report because we had obtained data that were not included in the fiscal year 1999 annual report. As noted in our report, we visited or obtained data directly from selected sites in order to validate the annual report data and found the data to be inaccurate, inconsistent, and incomplete. Accordingly, the noted discrepancies are part of the basis for our recommendations.

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Unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time, we will send copies to the appropriate congressional committees; the Secretaries of Defense, the Army, the Air Force, and the Navy; the Director of the Defense Logistics Agency; and the Director, Office of Management and Budget. We will also make copies available to others upon request.

Please contact me on (202) 512-4412 if you or your staff have any questions concerning this report. Major contributors to this report are listed in appendix II.



Charles I. Patton, Jr.  
Director, Defense Capabilities and  
Management

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# Appendix I: Scope and Methodology

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To determine whether the Department of Defense's reporting of cost sharing and recovery data was accurate, consistent, and complete, we examined the relevant sections of the Department's annual reports to Congress for fiscal years 1998 (Appendix F) and 1999 (Appendix E) and documentation on the Department's and components' reporting criteria and other policies. We compared reported data with data from other sources, including, for example, comments in other sections of DOD's annual reports, supporting documents from selected locations, and our previous reports. We selectively reviewed supporting information for 100 of the 130 sites listed in DOD's cost recovery report for fiscal year 1999. We selected the sites because reported recoveries exceeded \$1 million, because we had identified cost recovery at those sites during earlier work and/or because our prior work revealed potential problems with data for these sites.

We discussed the data with headquarters officials at the Departments of Defense, the Army, the Navy, and the Air Force and with the Defense Logistics Agency. In addition, we visited and/or obtained information directly from the following 12 cleanup sites:

- Rocky Mountain Arsenal, Colorado.
- Twin Cities Army Ammunition Plant, Arden Hills, Minnesota.
- Former Weldon Spring Ordnance Works, Weldon Spring, Missouri.
- Former Fort Devens, Massachusetts.
- Air Force Materiel Command and Wright-Patterson Air Force Base, Ohio.
- Naval Air Station, Whidbey Island, Washington.
- Navy Facilities Engineering Command, Poulsbo, Washington.
- Defense Supply Centers, Richmond, Virginia, and Philadelphia, Pennsylvania.
- Army Corps of Engineers, Kansas City, Missouri, and Omaha, Nebraska, Districts.

To identify indications of possible responsible parties or cost recovery agreements, we reviewed the "additional program information" columns in printed annual reports for several fiscal years, including fiscal years 1998 and 1999. We used the latest available cost data from these reports to determine which sites had past and/or estimated costs of \$50,000, the threshold level for DOD's cost recovery requirements, and determined whether they had been reported in the cost recovery appendixes in fiscal years 1998 and 1999. There were 55 comments in other parts of the reports for fiscal years 1998 and 1999 that indicated the presence of potential responsible parties or that cost recovery was being considered or pursued.

We conducted our review from August 2000 to August 2001 in accordance with generally accepted government auditing standards.

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# Appendix II: GAO Contacts and Staff Acknowledgments

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## GAO Contacts

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Uldis Adamsons (202) 512-4289  
Yolanda ElSerwy (202) 512-8476

## Acknowledgments

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In addition to those above, Robert Ackley, Arturo Holguin, and Tony Padilla made key contributions to this report.

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